

# Attachment E. Land Acquisition Reporting Procedures

## Outdoor Heritage Fund

(April 2012 – replaces December 2011 version)

### Section 1 – Grant acquisition procedures for all land

#### 1. Valuation/Appraisal

- a. No appraisal is required if the land is valued at \$20,000 or less. However, the grant recipient must provide documentation on how the value was determined.
- b. For all other properties, an appraisal must be prepared by a Certified General Level 4 appraiser licensed in Minnesota.
  - i. The appraisal must be prepared in conformity with the guidelines titled "Uniform Standards of Professional Appraisal Practice" and Minnesota DNR "Supplemental Appraisal and Appraisal Review Guidelines".
  - ii. In order to ensure compliance with the applicable appraisal standards, your written assignment instructions to the appraiser must be included as an addendum of the appraisal report.
  - iii. The appraiser must use the DNR certification form.
  - iv. The DNR must be named as an intended user of the appraisal report.
  - v. The intended use shall include negotiation and grant reimbursement.
  - vi. If the value is less than \$100,000, a summary appraisal report is acceptable.
  - vii. If the value is greater than \$10 million, two appraisals are required and the DNR must be involved in writing the appraisal scope of work to be provided to the appraisers. Contact Cindy Nathan at: [cindy.nathan@state.mn.us](mailto:cindy.nathan@state.mn.us).

#### 2. Appraisal Review

- a. The appraisal review must be prepared in conformity with the "Uniform Standards of Professional Appraisal Practice" and the current Minnesota DNR "Supplemental Appraisal and Appraisal Review Guidelines".
- b. For properties valued up to \$1,000,000, an appraisal review must be conducted by the grant recipient.
  - i. The grant recipient may conduct an administrative review for properties valued up to \$500,000. The grant recipient must use the DNR administrative review checklist. All elements of the checklist must be met.
  - ii. Technical reviews are required for properties valued over \$500,000. The grant recipient shall contract for the appraisal review for properties valued up to \$1,000,000.
    - (a) The grant recipient must use a technical reviewer on the list provided by the DNR.
    - (b) The DNR must be named as an intended user of the appraisal review report.
    - (c) The intended use shall be to assure reliability and credibility of the appraisal for use in reimbursement of grant monies.
    - (d) The reviewer must use the DNR Reviewer Certification form.
    - (e) The appraisal must be recommended.
- c. For properties valued greater than \$1,000,000, the technical appraisal review will be conducted by the DNR.
  - i. The grant recipient must provide the acquisition packet information to Cindy Nathan prior to the review request.
  - ii. The DNR must be named as an intended user of the appraisal review report.
  - iii. The intended use shall be to assure reliability and credibility of the appraisal for use in reimbursement of grant money.

- iv. The acquisition packet and appraisal report (2 copies) shall be submitted to: Cindy Nathan, Minnesota DNR, 1601 Minnesota Drive, Brainerd, MN 56401.
- v. The reviewer must use the DNR Reviewer Certification form.
- vi. The appraisal must be recommended.
- vii. The grant recipient will be mailed the review once it has been completed.

3. Landowner Information

- a. The grant recipient must be working with a willing seller and the landowner must be made aware of the fact that the grant recipient intends to either retain ownership or convey the real property or an interest in the property to a governmental entity.
- b. The grant recipient must disclose any conflict of interests to the landowner.

4. Site Assessment

- a. The grant recipient shall conduct an appropriate site assessment of the real property to determine whether the real property is used or has ever been used for the manufacture, use, storage, or disposal of any hazardous waste or toxic substance, pollutant or contaminants. If contamination is suspected, a Phase 1 review is required. If appropriate based on the findings of the Phase 1, a Phase 2 review is required.
- b. The grant recipient must inspect any buildings and other improvements.
- c. The grant recipient must obtain a completed landowner's disclosure form from the landowner. The completed landowner's disclosure form must be provided to the appraiser and the appraiser reviewer.

5. Legal Description/Marketable Title

- a. The grant recipient must have a real estate professional review the legal description for the property being acquired. When appropriate, the grant recipient shall have the legal description reviewed by a surveyor. The grant recipient must have the property surveyed by a surveyor hired by the grant recipient, if it is needed in order to have a recordable legal description. The surveyor hired by the grant recipient must be licensed in Minnesota.
- b. The grant recipient must obtain marketable title for the property as shown either by a title opinion prepared by an attorney licensed to practice in Minnesota or by title insurance (not just a title commitment). Should a cure be required before transfer to the DNR, the grant recipient is responsible for the cure to title.

6. Reasonable Costs/Accountability of Overall Program

- a. Documentation of all costs is required for reimbursement.
- b. Grant recipients are subject to periodic audits of purchases, appraisals, and appraisal review procedures. DNR's audit team may include financial, appraisal, and legal staff.
- c. Audit findings may alter grant recipients future level of authority to conduct work or receive additional grants.

7. Conveyance to the DNR

- a. If the property is to be conveyed to the DNR, please provide the DNR with the following information that was gathered under these procedures: a copy of the site assessment information, including the disclosure form completed by the landowner from whom you purchased the property; evidence that the County Board was notified of the acquisition; the title information; any survey work; and the deed or, if not yet purchased, the option agreement. The documents are to be provided to the acquisition program coordinator for the division that will administer the property.

- b. If you want to arrange for a closing with the DNR that is close proximity in time to your closing with the landowner from whom you are acquiring the property, please contact the acquisition program coordinator upon obtaining a signed option from the landowner.

A copy of the DNR guidelines, forms, and list of appraiser reviewers can be found at the following location: [http://www.dnr.state.mn.us/lands\\_minerals/appraisal\\_mgmt.html](http://www.dnr.state.mn.us/lands_minerals/appraisal_mgmt.html) .

## **Section 2 – Reporting Requirements, Eligible costs, Conditions for Payment of Eligible Costs:**

1. Reporting Requirements and Notice of Funding Restrictions
  - a. The grant recipient must comply with the project requirements and reporting requirements specified in Laws of 2011, 1st Special Session, Chapter 6, Article 1, Section 2, Subdivisions 9 (Project Requirements) and 14 (Real Property Interest Report);
  - b. A legal description of the interest in real property covered by the funding agreement;
  - c. A reference to the underlying funding agreement; and
  - d. The following statement must be referenced in the Notice of Funding Restrictions: *"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property shall transfer to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."*
2. Eligible Costs are the Following:
  - a. The value the grant recipient paid for the property up to 110% of the appraised value.
  - b. Appraisals and Appraisal Reviews,
  - c. Surveys,
  - d. Title commitment,
  - e. Loan costs for holding the property,
  - f. Property taxes paid by the grant recipient from the date of its acquisition,
  - g. Attorney fees for the specific acquisition (i.e. title opinion),
  - h. Staff time spent on the specific acquisition,
  - i. Abstracting, recording fees, and other closing fees, and
  - j. Penalty payments made for prepayment of a mortgage or loan.
3. Eligible Costs upon Prior Approval are the Following:
  - a. Title insurance,
  - b. Site assessments and environmental site inspection phase I and phase II, and
  - c. Other due diligence expenses, carrying costs, and transactional costs not listed under 2. Eligible Costs.
4. Conditions for Payments of Eligible Costs

The Recipient may use funds available under this Agreement to cover any costs incurred in following the above land acquisition procedures and as otherwise set out in the Accomplishment Plan attached as Attachment A subject to the following conditions:

- a. The Recipient will not be entitled to use funds available under this Agreement for any land value costs in excess of 110% of the appraised value.
- b. In those instances set out above where DNR review and approval of an appraisal, legal description, title work or environmental assessment is required; the recipient assumes the risk that its costs will not be covered under this agreement if the recipient purchases the real property or interest in real property before receiving the required prior DNR certification or approval.
- c. Eligible costs incurred in the purchase of real property or an interest in real property must be documented by:
  - 1) A copy of the site assessment document.
  - 2) A copy of all appraisal(s) and appraisal review(s).
  - 3) The legal description of the real property or interest in real property purchased and any required survey.
  - 4) Evidence of title as required above or as otherwise agreed to by the Attorney General.
  - 5) Evidence of the amount paid or to be paid for the real property or interest in real property.
  - 6) A copy of the recorded deed or easement language.
  - 7) Evidence of successfully recording a notice of funding restrictions.
  - 8) A copy of a notification to the L-SOHC of the final disposition of the property for reporting purposes.
  - 9) Parties to an easement must specify in the easement (document) all the provisions of their agreement (easement document) that are perpetual; an electronic copy of the terms of an easement acquired must be sent to the L-SOHC and the State. Please send a scanned copy of the signed easement.

Purchases of land or interest in land are eligible for reimbursement upon presentation to the State of items 1, 2, 3, 4, and 5 above, plus a fully executed purchase agreement, option exercise letter or similar commitment to purchase showing a closing date. The State will transfer funds to the Recipient no sooner than 10 working days prior to the date of closing. The Recipient will provide items 6, 7, 8 and 9 above to the State no later than 60 days following the receipt of funds, unless otherwise agreed upon by the State. A settlement statement and confirmation of payment from the bank must be provided within 10 days.